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FBI seizure pulls plug on Indymedia websites

Ellen Simon
Associated Press

Wednesday, October 27, 2004

Devin Theriot-Orr, a member of a feisty group of reporter-activists called Indymedia, was surprised when two FBI agents showed up at his Seattle law office, saying the visit was a "courtesy call" on behalf of Swiss authorities.

Theriot-Orr was even more surprised a week later when more than 20 Indymedia websites were knocked offline as the computer servers that hosted them were seized in Britain.

The Independent Media Center, more commonly known as Indymedia, says the seizure is tantamount to censorship, and civil libertarians agree. The Internet is a publishing medium just like a printing press, they argue, and governments have no right to remove Web sites.

The case, which involves an Internet company based in Texas, photos of undercover Swiss police officers and a request from an Italian prosecutor investigating anarchists, raises questions about the circumstances under which Internet companies can be compelled to turn over data.

"The implications are profound," said Barry Steinhardt of the American Civil Liberties Union, calling the Indymedia activists "classic dissenters" and likening the case to "seizing a printing press or shutting down a radio transmitter."

"It smells to high heaven," he said.

Internet providers in the United States routinely remain silent when ordered by authorities to turn over data, though actual seizures of their servers is rare.

The Oct. 7 seizure involves a particularly vocal group - Indymedia activists work in 140

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collectives around the world from the Czech Republic to Uruguay to western Massachusetts and their sites get about 18 million page views a month -and generated intense interest in Europe, including questioning in Britain's House of Commons.

The two computers were seized from the London office of Texas-based Rackspace Managed Hosting, and while they were returned Oct. 12 and all the sites are now working again, some that didn't have backup are missing posts and photos.

The governments involved did not provide The Associated Press with a clear picture of what was sought or which country initiated the action.

Richard Allan, a Liberal Democrat, asked in Britain's Parliament last week whether the Home Office, which is responsible for domestic security, had ordered the seizure.

Home Office spokeswoman Caroline Flint said, "I can confirm that no UK law enforcement agendas were involved in the matter."

On Friday, a motion was filed in San Antonio federal court to unseal the original order in the case.

"The significance of this is that apparently, a foreign government, based on a secret process, can have the U.S. government silence independent news sources without ever having to answer to the American people about how that kind of restraint could happen," said Kevin Bankston, a lawyer for the Electronic Frontier Foundation, which drafted the motion. "Every press organization should be asking, 'Am I next?'"

The FBI issued a statement saying that, "at the request of a foreign law enforcement agency," it assisted in serving Rackspace with a U.S. subpoena for Indymedia records. "Rackspace located the Indymedia records on servers in the United Kingdom. A brief interruption of Indymedia's Internet service resulted when Rackspace copied the subpoenaed records from their servers. There is no FBI or U.S. investigation into Indymedia."

Said one FBI source, who spoke on condition of anonymity, "There were two different requests from two different countries that are in no way connected, except that both pertain to Indymedia." The requests to handle the cases came through the countries' embassies, to the Department of Justice, then to the FBI, he said.

Bologna prosecutor Marina Piazzoli told The AP that she had requested information about Indymedia-posted material from the United States. She stressed that her request did not seek "the seizure of servers or hard disks." Piazzoli is investigating an anarchist group that has made bomb threats against European Commission President Romano Prodi.

Bologna prosecutors said in a statement that they made a request to U.S. authorities for "specific and targeted information about (the) Indymedia provider. This request concerns neither the management nor the content of the website."

"There was no reply to this request," the statement said. "Any other information is bound to secrecy."

Swiss federal justice authorities referred questions to officials at the state level in Geneva but those authorities did not respond.

It seems that photos posted on a French Indymedia site of two undercover police officers posing as protesters at an anti-globalization rally are at the crux of the Swiss case. Comments posted under the photos said they were taken because police had photographed protesters at past rallies. Swiss police have also posted images of protesters on police websites, labelling them "troublemakers" and asking the public for information about them.

In late September, Rackspace sent Indymedia an FBI notice about the photos, which were on an Indymedia site operated out of Nantes, France.

Rackspace sent the note to an Indymedia volunteer, who passed on the request to the Indymedia collective in Nantes. The Nantes collective then obscured the faces of the two Swiss officers, covering them with photos of the characters Mulder and Scully from the show The X-Files, he said.

Theriot-Orr said the F.B.I. agents who later visited him asked about the Nantes Indymedia

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operation that had posted the photos of the Swiss police officers.

A statement on Indymedia sites attributed to Rackspace said the company had complied with a "court order pursuant to a Mutual Legal Assistance Treaty" that lets countries assist each other "in investigations such as international terrorism, kidnapping and money laundering."

"Rackspace is acting as a good corporate citizen," the statement added. "The court prohibits Rackspace from commenting further on this matter." Rackspace spokeswoman Annalie Drusch refused further comment.

"If it was all about those photographs, whatever they tried to do backfired," Indymedia volunteer David Meieran in Pittsburgh said of authorities. "Now they're mirrored on 300 websites around the world."

"It's like trying to grab water," said Meieran. "The Internet is all over the place. You can't reach in and try to grab a photograph and expect it's not going to be put up anymore."

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